

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

United States of America,

Case No. 10-12397

Plaintiff(s),

Honorable Nancy G. Edmunds

v.

Cheryl Denise Thomas,

Defendant(s).

/

**OPINION AND ORDER OVERRULING DEFENDANT'S OBJECTIONS TO  
GARNISHMENT [17]**

Before the Court is Defendant Cheryl Denise Thomas's objections to Plaintiff's writ of garnishment. (Dkt. 20.) The Court set this matter for hearing on Wednesday, January 9, 2013. Plaintiff failed to show up for the hearing.

On June 18, 2010, Plaintiff filed suit against Defendant for her failure to pay her student loans. (Dkt. 1.) On August 9, 2011, the Court granted Plaintiff's motion for summary judgment and closed this case. (Dkt. 12, 13.) On September 11, 2012, Plaintiff thereafter sought to garnish the State of Michigan, State Income Tax, Michigan Department of Treasury, believing the garnishee to have property or money of Defendant's. (Dkt. 15.)

On September 24, 2012, Defendant filed an objection to the request for writ of garnishment and requested a hearing. (Dkt. 17.) In her request, she writes that her residence and motor vehicle are exempt. (*Id.*) She asks the Court to postpone the hearing

until she has legal representation. (*Id.*) Defendant did not address the garnishment of the Michigan Treasury Department issue.

Plaintiff states that it seeks to garnish Defendant's Michigan tax refund. (Dkt. 19, Pl.'s Resp. at 2-3.) Plaintiff argues that the income tax refund is property that may be garnished in accordance with 28 U.S.C. § 3002(12). Plaintiff further argues that Defendant has not shown that the state income tax refund is exempt, which is her burden to do. (Pl.'s Resp. at 3.)

The Court agrees with Plaintiff—Defendant has not met her burden to show that her income tax is not subject to garnishment. 28 U.S.C. § 3014(b)(2) provides that “[u]nless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.” Here, Defendant has not persuaded the Court.

The Court overrules Defendant's objections and upholds the garnishment.

SO ORDERED.

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: January 10, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 10, 2013, by electronic and/or ordinary mail.

s/Carol A. Hemeyer  
Case Manager